HON'BLE SRI JUSTICE NOOTY RAMAMOHAN RAO

W.P. No. 20762 of 2002
DATED: 24-08-2007

Between:-

District Fishermen Coop. Society
Rep. By its Member
T.Srinivasulu .. Petitioner

And

The Commissioner of Fisheries,
Department of Fisheries,
Gagan Vihar, Hyderabad and
Another .. Respondents

ORAL ORDER :

Heard the learned counsel for the petitioner and the learned Government Pleader for Animal Husbandry for the respondents.

The present writ petition has been instituted seeking the following relief.

> "For the reasons stated in the accompanying affidavit, it is prayed that this Hon'ble Court may be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondent not according permission to Register/Organize the Society shown in the annexure in the Kurnool District as bad, arbitrary and contrary to the provisions of A.P. Cooperative Societies Act, 1964, and also offends Article 14, 19 and 21 of the Constitution of India and consequently direct the respondent to register the pending society in Kurnool District under A.P. Cooperative Societies Act, 1964 and grant such other relief as this Hon'ble Court may deems fit and proper in the circumstances of the case."

The grievance of the writ petitioner is that the State Government through their Memo dated 11.6.2001 directed the Commissioner of Fisheries not to register new fisheries cooperative societies, but, where there are no

societies existing and in view of the potential, the local water users association be given the rights to operate such sources. Because of these general directions contained in the Memo dated 11.6.2001, the petitioners assert that the respondents 1 and 2 are not entertaining any proposals for registration of cooperative societies.

The State Legislature has enacted the Andhra Pradesh Cooperative Societies Act, 1964, Act No.7 of 1974 in order to facilitate and strengthen the functioning of Cooperative Societies based on cooperative principles and cooperative identity. Section 4 of the Act requires every society which has its main object the promotion of economic thrift of its members in accordance with cooperative principles or any society established for facilitating the operation of any such society to be registered. The procedure for registration of the society has been specified in Section 6 and hence it is extracted herein below:

> "**6. Registration of a society :- (1)** An application for the registration of a society shall be made to the Registrar in such form and with such particulars as may, from time to time, be specified by the Registrar.
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> (2) Every such application shall conform to the following requirements namely :-
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> (a) the application shall be accompanied by :-
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> (i) the original and one copy of the proposed bye laws of the society as adopted by the applicants;
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> (ii) a true copy of the minutes of the meeting at which the bye laws were adopted duly signed by the applicants;
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> (iii) a sworn statement from each applicant that he is a member of a different family and particulars furnished in the application form prescribed are true to the best of his knowledge and belief;
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> (b) where all the applicants are individuals, the number of applicants shall not be less than ten, each being a member of a different family, and every one of them shall possess eligibility to become a member as required under sub-section (1) of Section 19 :"

Thus, the Statute has thrust an obligation on the Registrar to whom an application for the registration of the society has to be made to consider the same and take a decision with reference to the principles enunciated under sub-section (4) thereof. If the Registrar is otherwise satisfied that the proposed society is sought to be formed for furtherance of the common interests of its members on cooperative principles, and so long as the criterion spelt out in sub-section (4) of Section 6 have been complied with, he had to accord permission for registration of such societies. In case he is not so satisfied, sub-section (5) mandates the Registrar to communicate by registered post the order of refusal together with reasons therefor. Therefore, the general guidelines issued by the State Government in their Memo dated 11.6.2001 for regulating effectively the functioning of the existing societies or the prospective societies, is not a bar for the Registrar to perform the duties and functions assigned to him under Section 6 of the Act. I therefore direct the respondents to entertain the application of the writ petitioner for registration of the society and consider the same strictly in accordance with the procedure prescribed under Section 6 and take appropriate decision on the matter and communicate his decision to the writ petitioner within a maximum period of four months from today. With this, the writ petition stands disposed of. No costs.

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knk 24.08.2007